

REMARKS/ARGUMENTS

In view of the foregoing amendments and final remarks, Applicants respectfully request reconsideration of the pending rejections.

Rejections Under 35 U.S.C. 102 and 103

The Claims have been rejected as being anticipated by several references considered individually: (1) Claims 1-14 have been rejected under 35 U.S.C. § 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as being obvious over *Rubber Toughened and Optically Transparent Blends of Cyclic Olefin Copolymers* to Khanarian (hereinafter referred to as "Khanarian"); (2) Claims 1-11 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,854,349 to Abe et al.; (3) Claims 1-7 and 10-14 have been rejected under 35 U.S.C. § 102(b) as being anticipated by EP 0995776 to Miyamoto et al.; (4) Claims 1-7 and 10-12 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,918,133 to Moriya et al.; and (5) Claims 1, 3-7, and 10-12 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2002/0128392 to Zen et al.

To further clarify the claimed invention, Claim 1 has been amended to recite that the polymer composition has a haze value of 10% or less and consists essentially of the recited components.

In all the rejections above, the Examiner alleges that the recited optical properties are inherent. However, in order to establish that a claim element is inherent, the recited element must necessarily be present. The Federal Circuit has repeatedly stated that speculation and probabilities is not sufficient to establish inherency. Thus, if it is shown that a recited property is not necessarily present, the recited property cannot be considered inherent. In the present rejections, the Examiner cites Miyamoto and states that Miyamoto teaches a polymer blend comprising a cyclic olefin and a styrenic elastomer copolymer and that the claimed haze values would be inherent in the composition of Miyamoto. However, a full reading of Miyamoto proves otherwise. For example, Table 2 of Miyamoto includes comparative examples 2 and 3 in which a Topas 6013 (cyclic olefin copolymer) is blended with a Kraton G 1650 (SEBS elastomer copolymer). The resulting polymer composition has a haze value of 92%, which is significantly higher than the claimed haze value of 10% or less. This example provides conclusive evidence

that recited haze value is not inherent in Miyamoto because the comparative example, which is a combination of a Topas cyclic olefin and a Kraton elastomer copolymer does not have a haze value of 10% or less.

Further, the comparative examples of Miyamoto are closer to the claimed invention than what is disclosed in any of Abe, Moriya, or Zen. For instance, Examples 1 through 5 of the present application are a combination of Topas 6013 and Kraton G1652 (SEBS), whereas the comparative examples in Miyamoto are a combination of Topas 6013 and Kraton G 1650 (SEBS). None of the other references describe a composition that is closer to the claimed invention than comparative examples 1 and 2 of Miyamoto. Thus, the comparative examples in Miyamoto also establishes that the recited haze values cannot be considered an inherent property of the polymer compositions described in Abe, Moriya, or Zen. Thus, the claimed invention is patentable over these references because none of the references, whether considered individually or in combination, describe a composition having the recited polymer components and a haze value of 10% or less.

Moreover, in view of the prior art, the claimed polymer composition having a haze value of 10% or less is both unexpected and surprising. As discussed above, comparative examples 1 and 2 of Miyamoto, which is the closest prior art to the claimed invention, do not have the recited properties. It was therefore surprising and unexpected that the claimed polymer composition exhibited a haze value of less than 10%. Accordingly, the claimed invention is patentable over the cited references because the claimed invention has surprising results that were not expected based on the closest prior art of record.

As noted above, Claim 1 has been amended to recite that the polymer composition consists essentially of the recited (a) and (b) components. As such, additional components, such as SBS, that materially affect the novel properties of the polymer composition, e.g., haze values, are excluded. Khanarian fails to disclose or suggest a polymer composition comprising the recited components and having the recited optical properties and physical properties. Further, one would not expect a polymer composition comprising components (a) and (b) to have good optical properties because all the examples in Khanarian in which component (b) comprises a elastomer copolymer having saturated carbon-carbon bonds (e.g., G1651, G1654, and G1650),

Khanarian repeatedly emphasizes cannot be used to prepare compositions having good optical properties. See for example page 2596.

The Examiner alleges that “Applicants argument regarding their conclusion of ‘according to the teachings of Khanarian, the elastomers described in Table 2, other than D1184, would not have good optical properties, such as haze value’ is speculative at best.” However, Applicants conclusion is not based on speculation, but is based on express statements in Khanarian. For example, Khanarian explicitly states “[t]he other elastomers were not indexed matched and so could not be used in making transparent blends.” See page 2596. These other elastomers included, for example, G1651, G1654, and G1650. This statement and additional statements in Khanarian clearly emphasizes that elastomers that are not refractive indexed matched to Topas are not expected to have good optical properties.

Thus, the claimed invention is patentable over Khanarian, because Khanarian fails to disclose or suggest the recited polymer composition having the recited physical and optical properties.

New Claim 29 recites that the cycloolefinic polymer and said elastomeric copolymer exhibit a difference in refractive index of 0.03 or greater. Support for Claim 29 can be found, for example, on page 10, lines 1 – 2. The cited references fail to disclose or suggest a polymer composition comprising a cyclic olefin component and an elastomeric copolymer component having the recited optical properties wherein the components exhibit a difference of refractive index that is 0.03 or greater. In fact, Khanarian, Abe, Miyamoto all specifically teach that to have improved optical properties (e.g., haze values) the elastomeric component and the cyclic olefin component need to be refractive indexed matched. For example, Miyamoto and Abe teach that the difference between refractive index for the components is at most 0.015.

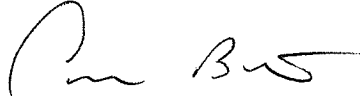
In view of the foregoing amendments and remarks, it is respectfully submitted that the pending rejections under 35 U.S.C. § 102 and 103 have been overcome, and that the claims are in condition for immediate allowance.

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Conclusion

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



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